

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH W. FOLEY,

Plaintiff,

- against -

CAPITAL ONE, N.A.,

Defendant.

25-CV-1526 (VSB) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

As discussed at the conference held via Microsoft Teams on May 15, 2025:

1. Plaintiff may proceed with filing a summary judgment motion devoted to the following issue: Assuming that Plaintiff never signed a document agreeing to personal liability for the Capital One credit card accounts of his corporate entities (LLCs, or other form if applicable), can Plaintiff nevertheless be personally liable based on the terms of the Capital One Customer Agreements and customer kits appearing at Dkt. 51-1 through 51-4, whether alone or in combination with use of the credit card accounts by those corporate entities?

2. In conjunction with addressing the substantive summary judgment issue set forth above, the parties shall also address what jurisdiction's law – New York, Virginia, or other – governs determination of the issue.

3. Plaintiff shall file his opening brief by May 21, 2025. Defendant shall file its opposition by June 4, 2025. Plaintiff shall file his reply, if any, by June 6, 2025.

4. Plaintiff's letter motion at Dkt. 40 for preclusion and sanctions are denied without prejudice to renew.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal flourish extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: May 15, 2025
New York, New York

Copies transmitted this date to all parties.